

utilize IAD Form 2, the “Inmate's Notice of Place of Imprisonment and Request for Disposition of Indictments, Informations, or Complaints.” Article III(a) also requires that such request be “accompanied by a certificate of the appropriate official having custody of the prisoner” (the State of North Carolina) stating the time and terms of the prisoner's current imprisonment. 18 U.S.C.App. 2 § 2, Art. III(a).

Defendant’s letter to the court is not an acceptable substitute under the act inasmuch as it does not provide the prosecuting authority (to wit, the United States Attorney) with adequate notice that defendant has invoked his rights under the IAD. As another court has observed,

Requiring prisoners to strictly comply with the provisions fo the IAD produces substantial benefits. First, if a prisoner uses standard IAD Form 2, and includes the certificate required by Article III(a), then the prosecuting authority will be notified that the IAD has been invoked and will be better able to avoid the severe sanction of dismissal mandated by Article V(c). Second, because prosecutors are not currently compelled to sort through every prisoner's correspondence and pleadings to find IAD references, the IAD remains an effective system to rapidly adjudicate the claims of prisoners challenging extradition. Third, requiring strict compliance with the IAD provides the prosecutor with information and the ability to decide whether or not to prosecute in the requesting state. If the prisoner is currently serving a lengthy sentence on a serious charge, then the requesting state might opt not to spend limited resources on a second trial unlikely to produce additional benefits.

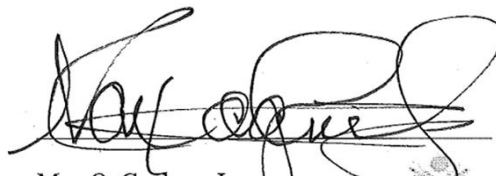
Norton v. Parke, 892 F.2d 476, 481 (6th Cir. 1989). Put another way, the determination of whether and when to writ a person from state custody is not determined by the court; rather, such determination is within the discretion of the United States Attorney.

ORDER

IT IS, THEREFORE, ORDERED that defendant’s letter (#4), to the extent it seeks relief from this court, is **DENIED**.

Defendant is advised that if a detainer has been filed against him, he should request from state authorities IAD Form 2 and that a certificate of the appropriate official having custody of the prisoner" (the State of North Carolina) be issued stating the time and terms of the prisoner's current imprisonment.

Signed: December 18, 2013



Max O. Cogburn Jr.
United States District Judge